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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,436	04/19/2001	Istvan Cseri	MSFT-0323/167389.1	2254

41505 7590 05/30/2007 WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION) CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891		

EXAMINER
POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
2145	

MAIL DATE	DELIVERY MODE
05/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/838,436	CSERI ET AL.
	Examiner	**Art Unit**	
	Melvin H. Pollack	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 March 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28 and 30-39* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28 and 30-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 April 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☒ Other: *see attached office action*.

DETAILED ACTION

Response to Amendment

1.   Applicant's request for reconsideration of the finality of the rejection of the last Office

action is persuasive and, therefore, the finality of that action is withdrawn. In particular, the

finality has been withdrawn to fix the palm contents, and to recognize that the affidavit is a

belated supplemental portion of the RCE, which fails to mention an affidavit.

2.   The declaration filed on 09 March 2007 under 37 CFR 1.131 has been considered but is

ineffective to overcome the Girardot reference.

3.   The evidence submitted is insufficient to establish a conception of the invention prior to

the effective date of the Girardot reference. While conception is the mental part of the inventive

act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure

to another. Conception is more than a vague idea of how to solve a problem. The requisite

means themselves and their interaction must also be comprehended. See *Mergenthaler v.*

Scudder, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The reply is incomplete, and leaves one

unsure of the direction of the conception.

4.   The evidence submitted is insufficient to establish diligence from a date prior to the date

of reduction to practice of the Girardot reference to either a constructive reduction to practice or

an actual reduction to practice. There is a lack of accounting regarding the actions between the

last date of Appendix D (01 August 2000) and the filing date (19 April 2001).

5.   There is also a failure to explain why the affidavit has surfaced only now, given that the

art has been applied since September of 2004, and why the affidavit arrived nearly three months

after the submitted RCE. The examiner will assume it was not meant to run out the examiner's clock, or in any other form of bad faith.

6.   The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Girardot reference. Even assuming conception, the affidavit fails to provide sufficient evidence of the direction the inventors were taking.

7.   The proposed reply filed on 09 March 2007 has not been entered because it is incomplete and unsigned. Pages 2 and 3 are missing, as is the signature.

8.   Since the above mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME LIMIT MAY BE GRANTED UNDER 37 CFR 1.136(a).

Claim Rejections - 35 USC § 101

9.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10.   Claims 11-26 and 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. According to the specification, a computer readable medium may have a signal embodiment (P. 6 of the specification), and signals-per-se are a non-statutory category. A computing device likewise includes a computer readable medium in most embodiments (specification, P. 6), and therefore likewise has the non-statutory signals-per-se category.

Claim Rejections - 35 USC § 102

11.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12.   Claims 1-28 and 30-39 are rejected under 35 U.S.C. 102(e) as being anticipated by

Giradot et al. (XML article, previously cited).

13.   For claims 1, 11, Girardot teaches a method and system (Title and Abstract) for

generating a data stream (Pp. 747-749, Sections 1 and 2) according to a binary format (P. 749,

section 3, Paras. 1-2) of a tag-based description language (Section 3) comprising tokenizing tag

names into numeric tokens (Tables 1 and 2).

14.   For claims 12, 23, Girardot teaches a method and system (Title and Abstract) for

receiving a well-formed document (Pp. 747-749, Sections 1 and 2) in a text format (P. 750,

source doc 1) of a tag-based description language (section 3) and converting the document to a

binary format (P. 749, section 3, Paras. 1-2) via tokenization of the tag and attribute names

(section 3) into numeric tokens (Tables 1 and 2).

15.   For claim 16, Girardot teaches a method and system (Title and Abstract) for assembling

data (Pp. 747-749, Sections 1 and 2) into a document (P. 751, section 3, example code 2)

according to a binary format (P. 749, section 3, Paras. 1-2) by tokenizing the tag and attribute

names (section 3) into variable sized numeric tokens (Tables 1 and 2).

16.   For claim 20, Girardot teaches a method and system (Title and Abstract) for receiving a

document (Pp. 747-749, Sections 1 and 2) formatted according to a binary format (P. 749,

section 3, Paras. 1-2) of a tag-based description language (section 3), wherein the document is

consumed incrementally (Section 4, esp. section 4.3 re parsing tokens in order), and directly

parsing the data in the document for use by another element in a computer system (section 4).

17.   For claims 27, 37, Girardot teaches a method and system (Title and abstract), including a

transmitting device (P. 761, Fig. 2) transmitting in a streaming fashion data (Pp. 747-749,

Sections 1 and 2) formatted according to a tag-based description language (section 3), for

generating a data stream according to a binary format (P. 749, section 3, Paras. 1-2) of the tag-

based description language (Tables 1 and 2), comprising:

      a.   For each unique tag name, at the first time a tag name of the data is encountered,

      tokenizing the tag name into a numeric token and transmitting the token and the text

      associated with the tag name (section 3); and

      b.   At any time subsequent to the first time that the tag name of the data is

      encountered, transmitting the numeric token without the text (sections 3 and 4.2).

18.   For claim 38, Girardot teaches a method and system (title and abstract) for generating a

data stream (Pp. 747-749, Sections 1 and 2) according to an XML binary format (P. 750, col. 1,

Para. 2), comprising tokenizing tag names and attribute names into variable sized numeric tokens

(section 3), wherein said tokenizing of attributes enables values natively stored as binary data

types to be inserted into the data stream (section 3), wherein said tokenizing of tag names

includes inserting a name definition construct into the data stream the first time a tag name is

encountered for purposes of recreating the tag names by a device that receives the data stream
(section 4), thereby decreasing parsing time (section 4.2).

19.   For claims 2, 28, Girardot teaches tokenizing attribute names into numeric tokens
(section 3; tables 1 and 2).

20.   For claims 3, 30, Girardot teaches that said numeric tokens for tag names are variable
sized (P. 750, table 1).

21.   For claims 4, 31, Girardot teaches that said numeric tokens for attribute names are
variable sized (P. 750, table 1).

22.   For claims 5, 13, 17, 24, 32, Girardot teaches that said tokenizing of attributes enables
values natively stored as binary data types to be inserted into the data stream (P. 750, col. 1,
Para. 2).

23.   For claims 6, 14, 18, 25, Girardot teaches that said tokenizing of tag names includes
inserting a name definition construct into the data stream the first time a tag name is encountered
for purposes of recreating the tag names by a device that receives the data stream (P. 751, section
4).

24.   For claims 7, 15, 19, 22, 26, 33, Girardot teaches that the tag-based description language
is extensible markup language (XML) (P. 750, col. 1, para. 2).

25.   For claims 8, 34, Girardot teaches that the tokenizing of the tag and attribute names
decreases the time elapsed parsing the data stream by a device that receives the data stream, the
time being decreased relative to the parsing of a corresponding text-based format of the tag-
based description language (P. 752, section 4.2).

26.   For claims 9, 35, Girardot teaches that the tokenizing of the tag and attribute names decreases overhead incident to formatting data for representation according to the tag-based description language (P. 751, col. 1, section 4.0, Paras. 1-2).

27.   For claims 10, 36, Girardot teaches that the tokenizing of the tag and attribute names decreases the size of the resulting data file formatted according to the tag-based description language (P. 748, col. 1, para. 2; P. 748, col. 2, para. 4; P. 751, col. 1).

28.   For claim 21, Girardot teaches that, before said parsing, said method includes converting the document to a text format of the tag-based description language (Pp. 752-753, section 4.2).

29.   For claim 39, Girardot teaches wherein said data is transmitted incrementally, and whereby a receiving device parses said data as it is incrementally received by the receiving device (Section 4).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887. The examiner can normally be reached on 8:00-4:30 M-F.
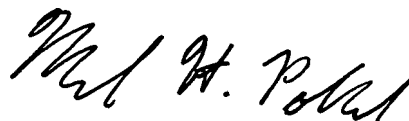
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melvin H Pollack
Examiner
Art Unit 2145

MHP
23 May 2007